

**REPLY UNDER 37 C.F.R. 1.116 – EXPEDITED
TECHNOLOGY CENTER 1614**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1614	Customer No.: 035811
Examiner : Shirley V. Gembeh	
Serial No. : 10/520,809	
Filed : January 10, 2005	
Inventors : Koji Kawai	Docket No.: TIP-04-1339
: Akiyoshi Saito	
: Tomohiko Suzuki	Confirmation No.: 9964
: Ko Hasebe	
: Tsutomu Suzuki	
Title : THERAPEUTIC OR PREVENTIVE AGENT	
: FOR NAUSEA/VOMITING	
	Dated: February 6, 2008

RESPONSE

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is submitted in response to the Official Action dated September 7, 2007.

Claims 11 – 12, 14 and 16 stand rejected under 35 U.S.C. §103 as being unpatentable over Portughese taken with Rudd in view of Neeleman as evidenced by Meijer. This is set forth in the middle of page 3 of the Official Action. It appears, based on the comments following the rejection that the rejection is really based on Portughese in view of Rudd. The Applicants respectfully submit that one skilled in the art would not make the combination inasmuch as there would be no reasonable expectation of success in making such a hypothetical combination. Details are set forth below.

The Applicants believe that the essence of the rejection is summarized as follows:

- (1) Portughese discloses the adverse effect of morphine (see col. 1, lines 15-24),
wherein one such effect is vomiting. If a ligand acts at a single opioid